

## **ORDINANCE NO. 24-2014**

### **AN ORDINANCE OF THE CITY OF FREMONT REZONING ±7 ACRES OF PROPERTY LOCATED APPROXIMATELY 750 FEET EAST OF PALM AVENUE AND NORTH OF INTERSTATE 680 FROM SINGLE-FAMILY RESIDENCE DISTRICT (R-1-10) TO PLANNED DISTRICT P-2014-020**

THE CITY COUNCIL OF THE CITY OF FREMONT DOES ORDAIN AS FOLLOWS:

#### **SECTION 1. ZONING MAPS AMENDED**

The Zoning Maps of the City of Fremont, codified as Fremont Municipal Code Title 18 (Planning and Zoning), Chapter 18.35 (Zoning Maps), Section 18.35.010, are hereby amended by rezoning ±7 acres of property located approximately 750 feet east of Palm avenue and north of Interstate 680, as more particularly shown on the PLN2014-00020 Planned District Zoning Map attached hereto and incorporated herein as Attachment 1, from Single-Family Residence District (R-1-10) to Planned District P-2014-020.

#### **SECTION 2. PLANNED DISTRICT REGULATIONS AND DESIGN GUIDELINES ADOPTED**

The Regulations and Design Guidelines for PLN2014-00020, which are attached as Exhibit “D” to the July 8, 2014 staff report, together with the finding and conditions, which are attached to the same report as Exhibit “E”, are hereby approved and adopted for Planned District P-2014-020, and are made Attachment 2 to this ordinance.

#### **SECTION 3. MITIGATED NEGATIVE DECLARATION ADOPTED**

The City Council hereby determines that the Mitigated Negative Declaration and Mitigation Monitoring Plan prepared for this ordinance have been completed in compliance with the requirements of the California Environmental Quality Act (CEQA), and finds on the basis of the whole record before it (including the initial study and any comments received) that there is no substantial evidence that the project will have a significant effect on the environment and that this action reflects the independent judgment of the City of Fremont. The Director of Community Development shall file a Notice of Determination with the County Clerk in accordance with the CEQA guidelines.

#### **SECTION 4. EFFECTIVE DATE**

This ordinance shall take effect and will be enforced thirty (30) days after its adoption.

SECTION 5. PUBLICATION AND POSTING

The City Clerk has prepared and published at least five days before the date of adoption a summary of this ordinance once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary to be published again with the names of those City Council members voting for and against the ordinance and shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

\* \* \*

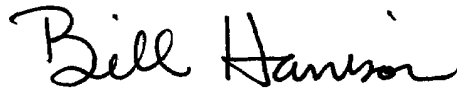
The foregoing ordinance was introduced before the City Council of the City of Fremont at the regular meeting of the City Council, held on the 8<sup>th</sup> day of July, 2014, and finally adopted at a regular meeting of the City Council held on the 9<sup>th</sup> day of September, 2014, by the following vote:

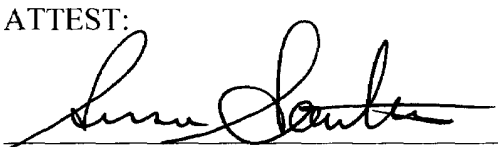
AYES: Mayor Harrison; Vice Mayor Bacon; Councilmembers Natarajan, Chan and Salwan

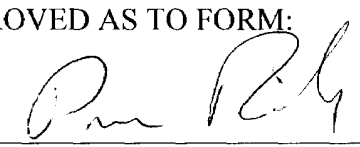
NOES: None

ABSENT: None

ABSTAIN: None

  
\_\_\_\_\_  
Mayor

ATTEST:  
  
\_\_\_\_\_  
Assistant City Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Sr. Deputy City Attorney



**ATTACHMENT 2 to Ordinance 24-2014**

**EXHIBIT "D"**  
**Regulations and Design Guidelines**  
**Palm Avenue Planned District P-2014-020**

***Provisions for Permitted Uses, Future Development, and Design Review Requirements:***

**I. *Planned District P-2014-020 Permitted Uses:***

- **Residential Use.** The following principal uses shall be permitted:
  - **Residential Use:** A total of 31 detached residential units shall be permitted. The siting of the 31 units shall be generally in accordance with Section V in this exhibit. The size and design of the units shall comply with the provisions in this exhibit.

**II. *Provisions for Future Development:***

- A. Substantive amendments to this Planned District shall be processed as a Rezoning. Examples of amendments requiring a rezoning include increased development density or intensity; and/or substantial changes in the location or distribution of development.
- B. Minor modifications that are in keeping with the intent of this P district shall be subject to review and approval of the Planning Manager.
- C. The Planning Manager is vested with the authority to determine if proposed development within this P district is a substantive change that requires a rezoning.
- D. Design Review Permits. When a property owner seeks approval for new site or building development or modification to constructed development, the property owner shall apply for a design review permit pursuant to the provisions of Fremont Municipal Code (FMC) Chapter 18.235. The reviewing authority for design review permits shall be the Planning Commission.
- E. Tentative Tract Map. Notwithstanding the conceptual depiction of lots in Section V of this Exhibit, Tentative Tract Maps shall be processed in accordance with FMC Chapter 17. The reviewing authority for Tentative Tract Maps shall be the Planning Commission.
- F. Preliminary Grading Plan. Site grading in excess of 10,000 cubic yards of material shall be subject to a Preliminary Grading Plan in accordance with FMC Chapter 18.205. The reviewing authority for Preliminary Grading Plans shall be the City Engineer, unless otherwise required by FMC Chapter 18.205.
- G. Land Use Determinations. All requests for a use determination shall be made in accordance with the provisions of FMC Chapter 18.250 (Modifications and Interpretations of Zoning Standards – Findings).
- H. Development in this Planned District shall follow the requirements of Section IV of this Exhibit except as specified in Section III below.

**III. Provisions Listing Approved Exceptions and Modifications:**

<i>Provisions for R-1-6 Residential Lots</i>		
<b>Description</b>	<b>Standard</b>	<b>Approved Under P-2014-020</b>
Minimum Lot Width	55 feet	55 feet, except 25 feet for lots 6-7, 9, 18-19, 21-25 and 31
Minimum Street Frontage	35 feet	35 feet, except 20 feet for lots 22-25
Minimum Front Yard Depth	20 feet	Garages: 20 feet Houses: 10 feet
Minimum Side Yard Depth (First Story)	Minimum 5 feet. Total 12 feet	Minimum 5 feet. Total 10 feet
Minimum Side Yard Depth (Second Story)	Minimum 6 feet. Total 15 feet	Minimum 5 feet. Total 10 feet
Maximum Stories	None Specified	2 stories
Maximum Bedrooms	None Specified	4 bedrooms
Maximum Roof Pitch	None Specified	4:12
Maximum Floor Area Ratio	None Specified	0.75
Maximum Floor Area of Second Floor	None Specified	100% of first floor, not including garage
Setback of Second Floor	None Specified	A portion of second floors shall be setback further than the first floor on the front and sides
Massing of Front Façade	None Specified	Large wall planes on front facades shall be broken up into smaller segments to reduce the appearance of excessive mass and bulk
Garage Setback	None Specified	Garages shall be setback further from the front property line than the house
Roofing Material	None Specified	Roofing material shall be concrete "S" tiles
Single-Story Roofing Feature	None Specified	A single-story roof feature is required to break up the massing between first and second floors
Minimum Number of Model Types	None Specified	A minimum of four different model types shall be utilized throughout the subdivision with varied roof forms, articulation, and massing
Minimum Exterior Wall Cladding Materials	None Specified	2 cladding materials, one primary and one secondary

Single-Story Front Porch Element	None Specified	A single-story front porch element that is clearly identifiable and articulated is required for each building.
Architectural Detailing	None Specified	Architectural detailing, such as shutters, pot shelves, bay windows, awnings, columns, exposed rafters, enhanced sills, and wrought iron railings, shall be employed on all buildings.
Rear Yard Patio Area	None Specified	A rear yard patio area of at least 250 square feet in size, enclosed on three sides, and roofed, shall be incorporated into every building design. The rear yard patio area shall not be converted into internal living area
Drought Tolerant Vegetation	None Specified	Drought tolerant vegetation shall be utilized to the extent feasible.
Freeway Screening	None Specified	A dense row of Coast redwoods ( <i>Sequoia sempervirens</i> ), or a species of equivalent noise and toxic air contaminant screening ability) shall be planted along Interstate I-680
Emergency Vehicle Access	None Specified	An Emergency Vehicle Access Easement (EVAE) shall be provided west of the subject site providing access to Palm Avenue for emergency vehicles
Pedestrian Connection to Future Park	None Specified	Pedestrian access shall be provided to the adjacent planned city park site

**IV. Provisions of Zoning District Most Similar in Nature and Function to P-2014-020**

**Chapter 18.65  
R-1 SINGLE-FAMILY RESIDENCE DISTRICT**

**Sections:**

- 18.65.010 Purpose.
- 18.65.020 Permitted uses.
- 18.65.030 Accessory uses.
- 18.65.040 Conditional uses – Planning commission as the reviewing agency.
- 18.65.050 Zoning administrator uses.
- 18.65.060 Designated neighborhood – Process.
- 18.65.065 Established designated neighborhoods.
- 18.65.070 Area, lot width and yard requirements – Table of standards.
- 18.65.080 Land use range enabler – Purpose.
- 18.65.090 Land use range enabler – Eligibility.
- 18.65.100 Land use range enabler – Processing.
- 18.65.110 Land use range enabler – Provisions.
- 18.65.120 Other required conditions.

**18.65.010 Purpose.**

To stabilize and protect the residential characteristics of the district and to promote and encourage a suitable environment for family life. The R-1 district is intended for the single-family home and the services appurtenant thereto. (Ord. 87 § 8-2600; Ord. 1294 § 1, 11-28-78; Ord. 1335 § 1, 6-26-79; Ord. 2045 § 70, 9-21-93; Ord. 16-2005 § 1, 7-26-05. 1990 Code § 8-2600.)

**18.65.020 Permitted uses.**

The following are the principal permitted uses in an R-1 district:

- (a) Single-family detached dwellings;
- (b) Special residential care facilities;<sup>1</sup>
- (c) Supportive housing<sup>1</sup> for up to six persons;
- (d) Transitional housing<sup>1</sup> for up to six persons;
- (e) Duplex dwellings on corner lots; and
- (f) Any other use that the zoning administrator finds, in accordance with Chapter 18.240, is similar in nature, function or operation to permitted uses allowed within this district. (Ord. 87 § 8-2601; Ord. 296 § 2; Ord.

482 § 1; Ord. 765 § 1, 2-24-70; Ord. 927 § 4, 11-7-72; Ord. 1279 § 1, 10-3-78; Ord. 1294 § 1, 11-28-78; Ord. 1335 § 1, 6-26-79; Ord. 1458 § 4, 8-11-81; Ord. 2045 § 70, 9-21-93; Ord. 2423 § 5, 4-10-01; Ord. 12-2004 § 9, 6-1-04; Ord. 1-2009 § 9, 1-6-09. 1990 Code § 8-2601.)

#### **18.65.030 Accessory uses.**

The following are accessory uses permitted in an R-1 district:

- (a) Guesthouses, not rented or otherwise conducted as a business;
- (b) Private garages and parking areas;
- (c) Private swimming pools, exclusively for the use of the residents and guests;
- (d) Rooming and boarding of not more than two persons;
- (e) Satellite dish antennas;
- (f) Secondary dwelling units;<sup>3</sup>
- (g) Signs that comply with Chapter 18.193;
- (h) Small family day care homes;
- (i) Large family day care homes;
- (j) Supportive services for on-site supportive housing;<sup>1</sup> and
- (k) Other accessory uses and buildings customarily appurtenant to a permitted use. (Ord. 87 § 8-2602; Ord. 627 § 3; Ord. 758 § 6, 12-16-69; Ord. 862 § 5, 9-21-71; Ord. 1076 § 1, 12-2-75; Ord. 1086 § 8, 1-20-76; Ord. 1098 § 1, 5-4-76; Ord. 1294 § 1, 11-28-78; Ord. 1335 § 1, 6-26-79; Ord. 1381 § 2, 5-20-80; Ord. 1624 § 4, 8-28-84; Ord. 1759 §§ 9, 10, 1-6-87; Ord. 2045 § 70, 9-21-93; Ord. 2502 § 3, 7-1-03; Ord. 1-2009 § 10, 1-6-09; Ord. 5-2012 § 1, 4-17-12. 1990 Code § 8-2602.)

#### **18.65.040 Conditional uses – Planning commission as the reviewing agency.**

The following uses may be permitted with a conditional use permit, provided all other requirements of this title are met. The procedure for a conditional use permit shall be as set forth in Chapter 18.230:

- (a) Ambulance service;<sup>2</sup>
- (b) Children's nursery school;
- (c) Community clubs, and other public and private noncommercial recreation areas and facilities, such as country clubs, golf courses and swimming pools;<sup>1,3</sup>
- (d) Elementary and secondary schools;<sup>1,3</sup>
- (e) Emergency shelters;<sup>1,3</sup>
- (f) Meal service facility<sup>1</sup> accessory to a public or quasi-public use, in accordance with Chapter 18.190, except in an (F-W) or (F) overlay district; and
- (g) Public and quasi-public buildings and uses of a recreational, educational, religious, cultural or public service type; not including corporation yards, storage or repair yards, and warehouses.<sup>1,3</sup> (Ord. 87 § 8-2603; Ord. 259 § 1; Ord. 296 § 3; Ord. 319 § 1; Ord. 350 § 2; Ord. 371 § 3; Ord. 382 § 4; Ord. 395 § 3; Ord. 482 §



2; Ord. 765 § 2, 2-24-70; Ord. 1086 § 8, 1-20-76; Ord. 1099 § 1, 5-25-76; Ord. 1294 § 1, 11-28-78; Ord. 1335 § 1, 6-26-79; Ord. 1564 § 2, 6-28-83; Ord. 1624 § 5, 8-28-84; Ord. 1683 § 5, 8-27-85; Ord. 1759 § 11, 1-6-87; Ord. 1885 § 8, 8-22-89; Ord. 2045 § 70, 9-21-93; Ord. 2506, Exh. A § 2, 7-22-03; Ord. 1-2009 § 11, 1-6-09. 1990 Code § 8-2603.)

#### **18.65.050 Zoning administrator uses.**

The following uses may be permitted with a zoning administrator permit, provided all other requirements of this title are met. The procedure for a zoning administrator permit shall be as outlined in Chapter 18.275:

- (a) Agriculture,<sup>1</sup> except for the raising of animals or fowl for commercial purposes, or sale of any products at retail on the premises;
- (b) Dwelling groups;<sup>3</sup>
- (c) Home occupations;<sup>3</sup>
- (d) Secondary dwelling units;<sup>3</sup> and
- (e) Any other use which the zoning administrator finds is similar in nature, function and operation to zoning administrator uses within the district. The request for such a determination shall be submitted as a “finding application” to the zoning administrator pursuant to the requirements set forth in Chapter 18.240. (Ord. 1683 § 6, 8-27-85; Ord. 2045 § 70, 9-21-93; Ord. 2502 § 4, 7-1-03; Ord. 5-2012 § 2, 4-17-12. 1990 Code § 8-2603.1.)

#### **18.65.060 Designated neighborhood – Process.**

- (a) Within the R-1 district, the city council may designate certain neighborhoods as having unique characteristics and design attributes which warrant preservation through particularized regulations and enhanced design review. Designated neighborhoods shall be created by ordinance as subareas within the R-1 district in accordance with the procedures set forth in Chapter 18.225. The ordinance creating the designated neighborhood shall describe the boundaries of the neighborhood and assign it a unique name, which shall be reflected on the city’s zoning maps, and shall describe additional regulations particular to the neighborhood, which shall be included in the table of regulations for the R-1 district, set forth in Section 18.65.070. The city council may, by resolution, adopt design guidelines for any designated neighborhood.
- (b) Commencing from the date of its establishment, all new construction and alteration and remodeling of existing homes or structures within a designated neighborhood shall be subject to its standards and guidelines, and shall require design review permit approval pursuant to Chapter 18.235. (Ord. 15-2010 § 1, 9-7-10; Ord. 9-2014 § 13, 3-4-14. 1990 Code § 8-2604.)

#### **18.65.065 Established designated neighborhoods.**

The following subareas in the R-1 district have been established as designated neighborhoods:

- (a) Glenmoor Gardens (R-1-6-GG); established October 7, 2010.
- (b) Mission Ranch (R-1-8-MR); established October 7, 2010. (Ord. 15-2010 § 2, 9-7-10. 1990 Code § 8-2604.5.)

**18.65.070 Area, lot width and yard requirements – Table of standards.**

The following minimum requirements, set forth in Table 18.65.070, shall be observed, except where increased for conditional uses. The minimum requirements shall be one of the following for the district classifications as designated on the zoning map. Combining small parcels may be necessary to fulfill the requirements of this chapter and other city standards and regulations.

**Table 18.65.070**  
**Residential District Development Standards**

Zoning <u>District</u> <sup>1</sup> >>> v Development Standard (measurement) v		R-1-6	R-1-6 Glenmoor Gardens <sup>2</sup>	R-1-8	R-1-8 Mission Ranch <sup>3</sup>	R-1- 10	R-1- 20	R-1- 40	
Minimum <u>Lot Area</u> (square feet)	Single <u>Family</u>	6,000	6,000	8,000	8,000	10,000	20,000	40,000	
	Duplex on <u>Corner Lot</u>	8,000	8,000	10,000	10,000	12,000	20,000	40,000	
Minimum <u>Street</u> <u>Frontage</u> (feet)	Regular <u>Lot</u>	35	35	35	35	35	35	35	
	Flag <u>Lot</u>	20	20	20	20	20	20	20	
Minimum <u>Lot Width</u>	Interior (feet)	55	55	70	75	80	100	150	
	Corner (feet)	65	65	80	80	90	110	160	
Minimum <u>Lot Depth</u> (feet)		100	100	100	100	100	100	100	
Minimum <u>Front Yard</u> Depth <sup>4</sup> (feet)		20	20	25	25	25	35	40	
Minimum <u>Rear Yard</u> Depth <sup>5,6</sup>	One <u>Story</u> (feet)	25	25	25	25	30	40	50	
	Two <u>Story</u> (feet)	25	-	30	30	35	40	50	
Minimum Interior <u>Side</u>	1st <u>story</u>	Minimum (feet)	5	5	7	7	8	10	20

Table 18.65.070

Residential District Development Standards

Zoning District <sup>1</sup> >>> v Development Standard (measurement) v			R-1-6	R-1-6 Glenmoor Gardens <sup>2</sup>	R-1-8	R-1-8 Mission Ranch <sup>3</sup>	R-1- 10	R-1- 20	R-1- 40
Yard Depth <sup>4, 5, 7, 8</sup>		Total (feet)	12	12	16	16	20	25	45
	2nd story <sup>9</sup>	Minimum (feet)	6	-	8	8	10	10	20
		Total (feet)	15	-	20	20	20	25	45
Minimum <u>Street Side Yard Depth</u> on <u>Corner Lots</u> (feet)			10	10	12.5	12.5	12.5	17.5	20
Maximum Building Height <sup>10</sup>	<u>Principal Structure</u>	<u>One Story</u> (feet)	30	17 <sup>9</sup>	30	17 <sup>9</sup>	30	30	30
		<u>Two Story</u> (feet)		-		27 <sup>9</sup>			
	<u>Accessory Structure</u> (feet)		12	12 <sup>9</sup>	12	12 <sup>9</sup>	12	12	12
Maximum Height Above Grade for Finish Floor Level [1st <u>story</u> over basement] (inches)			-	22	-	22	-	-	-
Roof Pitch		Minimum	-	3:12	-	3:12	-	-	-
		Maximum	-	5:12	-	5:12	-	-	-
Maximum <u>Lot Coverage Including Garage Area</u> (% of <u>lot area</u> )		<u>One Story</u> (%)	-	40	-	40	-	-	-
		<u>Two Story</u> (%)		-		30			
Minimum Required <u>Lot Coverage</u> for 1st Floor in Order to Allow 2nd <u>Story</u> (% of <u>lot area</u> )			-	-	-	22	-	-	-

<sup>1</sup> Development standards for R-1-X districts shall be specified at the time of establishment.

<sup>2</sup> See Glenmoor Gardens Design Guidelines.

<sup>3</sup> See Mission Ranch Design Guidelines.

<sup>4</sup> For front yard exceptions and modifications, see Section 18.170.030.

<sup>5</sup> For side and rear yard exceptions and modifications, see Sections 18.170.050 and 18.170.070.

<sup>6</sup> Rear and side yards may be substituted for one another, except that on a corner lot such substitution shall be made only between a rear yard and an interior side yard.

<sup>7</sup> For combination one- and two-story structures, the one-story portion of the structure shall meet the one-story setback requirements and the two-story portion of the structure shall meet the two-story setback requirements. In no case shall the total side yard setback for combination one- and two-story structures be less than that required for a one-story structure only. The wider setback shall be on the two-story side.

<sup>8</sup> For side yard exceptions, see Section 18.170.060(b), (c) and (d).

<sup>9</sup> Requires design review permit. See policies for two-story homes and second story additions.

<sup>10</sup> For Glenmoor Gardens and Mission Ranch, height is measured from grade to the top of the roof ridge.

(Ord. 15-2010 § 3, 9-7-10; Ord. 9-2014 § 13, 3-4-14. 1990 Code § 8-2605.)

#### **18.65.080 Land use range enabler – Purpose.**

The purpose of the land use range enabler is to provide an alternative, streamlined means to allow new development for certain property within general plan residential density ranges 5, 6, and 7 (corresponding to the R-1-6, R-1-8 and R-1-10 zoning designations) to be approved above the low end of the density range. Sections 18.65.090 through 18.65.110 specify the eligibility and the process for consideration. (Ord. 16-2005 § 2, 7-26-05. 1990 Code § 8-2605.2.)

#### **18.65.090 Land use range enabler – Eligibility.**

All projects proposing to use the land use range enabler shall meet the following requirements:

(a) Only properties zoned R-1-10, R-1-8 and R-1-6 (excluding those zoned with an H-1 overlay) on or before August 25, 2005, are eligible.

(b) Only new subdivisions consisting of seven or more lots are eligible.

(c) Property utilizing the land use enabler shall be subject to provisions of any overlay district applicable to that project. (Ord. 16-2005 § 2, 7-26-05. 1990 Code § 8-2605.3.)

#### **18.65.100 Land use range enabler – Processing.**

(a) Land use range enabler requests shall be processed as a public hearing for a design review permit approval by the planning commission and shall only be processed concurrent with a request for subdivision map.

(b) Applications requiring historical architectural review board approval shall be considered by that board prior to consideration by the planning commission. (Ord. 16-2005 § 2, 7-26-05; amended during 4/14 supplement. 1990 Code § 8-2605.4.)

#### **18.65.110 Land use range enabler – Provisions.**

(a) Eligible projects using the land use range enabler may vary lot area, lot width and yard requirements outlined in Section 18.65.070. If the eligible project is within an R-1-10 or R-1-8 zoning district, the area, lot width and yard requirements of the next lower R-1 district shall be used in evaluating projects (e.g., for an R-1-10 project, the R-1-8 yard and area standards would be applied) together with Chapter 18.235, Design Review Permits, and any other applicable standards or guidelines (e.g., historical overlay district).

(b) If the eligible project is located in an R-1-6 district, requirements may be reduced by no more than 20 percent. The design guidelines for small lot single-family residence developments and any other applicable standards or guidelines shall be used by the planning commission in evaluating proposals for smaller lots in the R-1-6 district.

(c) Except for projects proposed under Chapter 18.165, Density Bonus and Affordable Housing Incentives, project density may not exceed the top of the density range established by the general plan land use designation for the property.

(d) The approved variations in lot area, lot width, lot depth, and yard requirements shall be adopted as part of the approval and shall be kept on file in the planning division similar to a planned unit development so future homeowners can be aware of the varied provisions approved as part of the development project.

(e) Subsequent additions or modifications to homes approved under these provisions may be considered on a case-by-case basis through a subsequent design review permit if the proposed addition is in keeping with the originally approved design intent. (Ord. 16-2005 § 2, 7-26-05; Ord. 9-2014 § 13, 3-4-14. 1990 Code § 8-2605.5.)

#### **18.65.120 Other required conditions.**

The following additional conditions shall apply in an R-1 district:

(a) Subsequent to entitlement approval, final design review, pursuant to Chapter 18.235, shall be required of all conditional uses and zoning administrator uses, except home occupations.

(b) A design review permit approval pursuant to Chapter 18.235.

(c) Driveways shall have a minimum length of 20 feet from the public right-of-way and a minimum width of 10 feet.

(d) Other than public or private street lights, exterior lighting shall be diffused or concealed in order to prevent illumination of adjoining properties or the creation of objectionable visual impacts on other properties or streets.

(e) Utility lines shall be located so as not to prohibit the placement of at least one street tree within the lot frontage. In those instances where sidewalks are integral with the curb, the street tree shall be placed in the front yard setback area. If necessary, utility lines shall be placed under or directly adjacent to the driveway area.

(f) Parking shall be provided for each single-family dwelling as required in Chapter 18.183. Individual garages shall remain reserved for vehicular parking and shall not be used as a storage area so as to preclude parking for two motor vehicles.

(g) Electrical, telephone and utility transformers shall be placed underground. In no case shall a transformer be visible from any public or private street right-of-way.

(h) Internal and external storage of municipal solid waste, recyclables, and yard waste shall conform to standards set out in Section 18.190.440.

(i) For R-1-80 and R-1-160 zoning districts in the hill area, the city engineer or building official may require a new or additional on-site geotechnical report for grading plans, subdivision maps, or building permits on lands which are in a landslide, in the path of a landslide, at risk of a landslide, or in an area of slope instability as reasonably determined by the city engineer or building official. The evidence to be considered by the city engineer or building official may include any or all of the following:

(1) Fremont general plan;

(2) An on-site geotechnical report;

(3) A survey by the United States Geological Survey;

(4) A survey by the California Geologic Survey;

(5) A report available to the city; or

(6) Observation of physical conditions. The investigation shall be prepared by a state-licensed professional. The scope of such investigation shall be determined by the city engineer or building official based on the type of development or construction proposed, and the constraints to the land. The city engineer or building official may require approval of the investigation through peer review by an independent geologist selected by the city engineer or building official with the cost borne by the applicant. Based upon the results of the investigation, the city engineer or building official may approve or issue the requested plan, map or permit. (Ord. 87 § 8-2606; Ord. 481 § 2; Ord. 978 § 4, 2-12-74; Ord. 1086 § 9, 1-20-76; Ord. 1211 § 1, 11-8-77; Ord. 1294 § 11, 11-28-78; Ord. 1335 § 1, 6-26-79; Ord. 1683 § 7, 8-27-85; Ord. 1732 § 2, 8-26-86; Ord. 1759 § 13, 1-6-87; Ord. 1958 § 2, 2-5-91; Ord. 2045 § 70, 9-21-93; Ord. 2528 § 5, 12-16-03; Ord. 16-2005 § 3, 7-26-05; Ord. 1-2007 § 1, 2-6-07; Ord. 9-2014 § 13, 3-4-14. 1990 Code § 8-2606.)

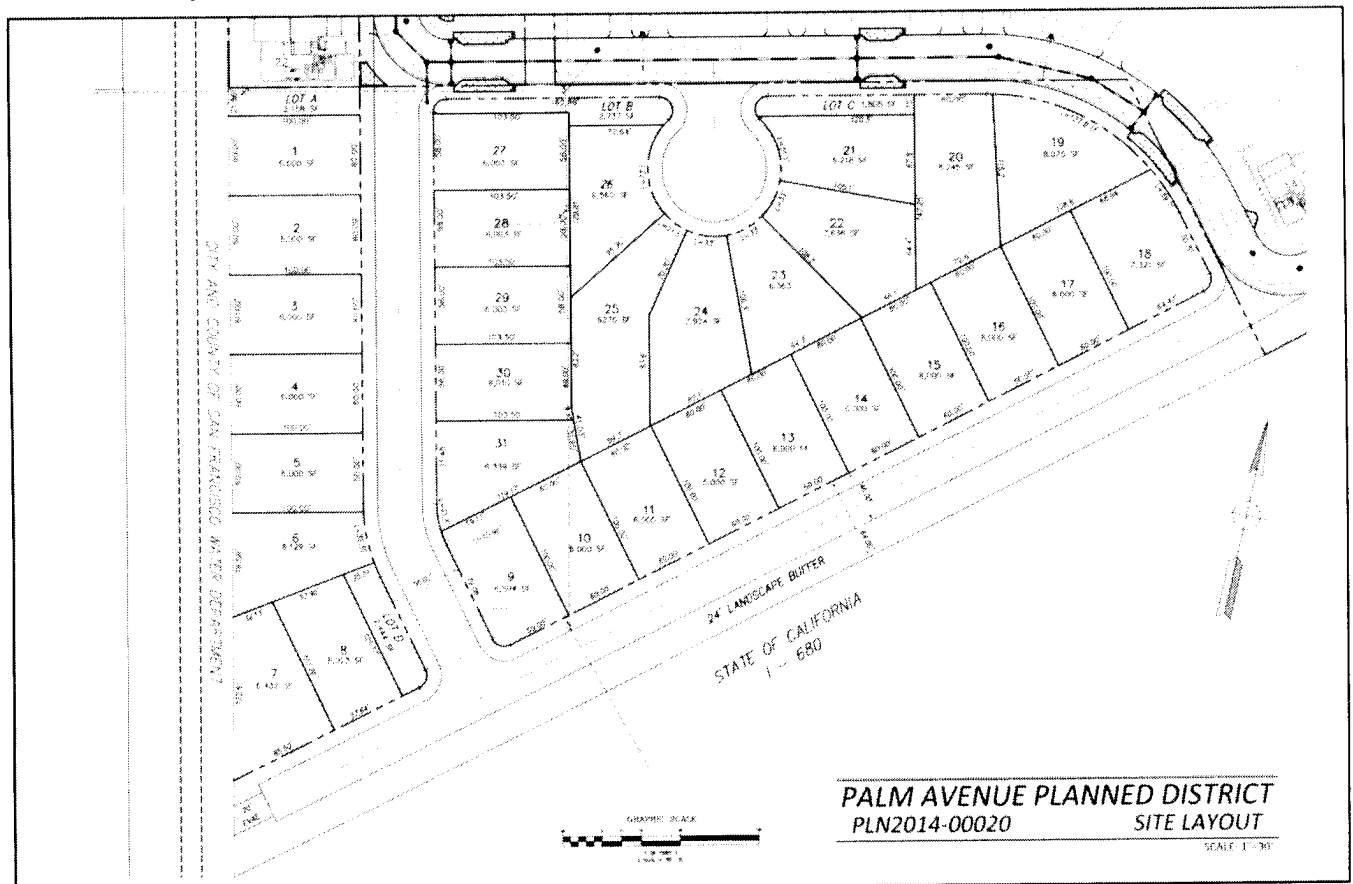
[Notes Applicable to Chapter 18.65]

<sup>1</sup> Term is defined in Chapter 18.25.

<sup>2</sup> Term is elaborated on in Standard Industrial Classification Manual.<sup>1</sup>

<sup>3</sup> The special regulations of Chapter 18.190 apply to this use.

## V. Site Layout



\*Lots A-D are designated for stormwater treatment and hydromodification mitigation.

**EXHIBIT "E"**  
**Finding and Conditions of Approval for Planned District P-2014-020**

**As Approved by the City Council on September 9, 2014**

**FINDING:**

The finding below is made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated June 12, 2014 and the staff report to the City Council dated July 8, 2014, incorporated hereby.

**Based on the analysis in the accompanying staff report, the proposed Planned District is in conformance with the General Plan and Zoning Ordinance, and the following finding can be made in accordance with Fremont Municipal Code Section 18.110.020(g):**

***The uniqueness of the size, shape, topography of the property or its relationship to adjacent parcels, historical character or landscaping features is such that the property can be best be developed as a P district in that the project site is located adjacent to a Planned District (P-2012-109) for a community of 42 single-family homes. Adoption of the proposed Planned District would ensure that the development intensity and pattern of the site are consistent with the adjacent development and that the new homes become a cohesive part of the community. The Regulations and Design Guidelines for the Planned District prescribe design elements and features consistent with visual character of the neighborhood.***

**CONDITIONS OF APPROVAL:**

**Mitigation Measure Air-1:** Prior to the issuance of a grading and/or building permit, whichever occurs first, the following best management practices shall be included in a dust control plan to limit particulate matter (fugitive dust emissions) and noted on construction plans with the contact information for a designated person who will oversee the on-site implementation of the plan:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
8. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.



**Mitigation Measure Bio-1:** If ground-disturbing activities or impacts to on-site shrubs and/or trees occurs during the breeding season (approximately February 1 through August 31), pre-construction nesting surveys shall be conducted by a qualified biologist. The pre-construction survey shall occur within 14 days prior to the ground disturbance and vegetation removal activities. Surveys shall be conducted within suitable nesting habitat on and within 250 feet of the area to be disturbed. If the survey does not identify any nesting special-status bird species in the area potentially affected by the proposed activity, no further mitigation is required.

If nest sites or young are located, a no-disturbance buffer shall be established around the active nest. The biologist shall consult with the California Department of Fish and Game (CDFG) to determine the size of the no-disturbance buffer, which will be marked off with temporary orange construction fencing. Active non-status passerine nests identified at that time should be protected by a minimum 50-foot radius exclusion zone. Active raptor or special-status species nests should be protected by a minimum 250-foot radius exclusion zone. A qualified biologist shall decide the exclusion zone buffer width, which may vary depending on habitat characteristics and species. The exclusion zone shall be physically marked with fencing. Exclusion zones shall remain in place until August 31 or until the young have fledged (typically three to four weeks). If exclusionary buffers are encroached upon by construction activity during the breeding season, work shall be immediately halted and a qualified biologist contacted to assess the status of the nest. If the biologist finds that the nest has been abandoned, CDFG and/or the U.S. Fish and Wildlife Service (USFWS) shall be contacted.

**Mitigation Measure Bio-2:** A pre-construction survey for bats shall be conducted by a qualified bat biologist prior to the removal of any existing trees on the project site. The survey shall be performed no more than 14 days prior to tree removal. The bat biologist shall identify all measures necessary for the protection of bat species, including humane bat eviction or exclusion, as warranted, and the project applicant shall comply with all bat protection measures identified by the biologist.

**Mitigation Measure Bio-3:** No more than 14 days prior to the initiation of site grading, a qualified wildlife biologist shall conduct a preconstruction protocol-level survey of the project site in accordance with U.S. Fish and Wildlife Service (USFWS) requirements in order to definitively determine whether any individual California red-legged frogs (CRLF) are present within the confines of the site. If any CRLF are encountered, they shall be relocated in consultation with the USFWS prior to initiating ground disturbing activities. To the extent practicable, all site-disturbing construction activities shall be performed during the dry season (April 16th through October 14th).

**Mitigation Measure Bio-4:** Implement Mitigation Measure Bio-1.

**Mitigation Measure Bio-5:** The applicant shall comply with the City's Tree Preservation Ordinance.

**Mitigation Measure Cult-1:** Prior to initiation of site grading or other ground disturbance, the project sponsor shall retain a qualified archaeologist to develop and implement a mechanical subsurface testing program to methodically excavate test pits and collect soil samples and artifactual/ecofactual material as warranted for analysis. If archaeological soils or artifacts are encountered, the archaeologist shall design and implement a mapping and recovery program, subject to approval by the City of Fremont, to map the aerial extent and depth of cultural deposits. As warranted by the results of the subsurface testing, the archaeologist may identify additional precautions to be followed during the remainder of project construction, such as monitoring of all site disturbing activities and site grading by a qualified archaeologist, or training of construction personnel, prior to the initiation of construction, to be alert to and recognize potentially significant cultural resources that could potentially be exposed during site disturbing activities. The project sponsor shall comply with any such recommendations identified by the project archaeologist.

If any archaeological or paleontological resources or human remains are encountered during grading or site disturbance, the following measures shall be implemented:

- All work shall cease within a 200-foot radius of the discovery until it can be evaluated by a qualified archaeologist or paleontologist. Work shall not continue until the archaeologist or paleontologist conducts sufficient research and data collection to make a determination as to the significance of the resource. If the resource is determined to be significant and mitigation is required, the first priority shall be avoidance and preservation of the resource. If avoidance is not feasible, an alternative archaeological or paleontological management plan shall be prepared that may include excavation. If human remains are discovered, the Alameda County Coroner's office shall be notified as required by state law. All excavation and monitoring activities shall be conducted in accordance with the prevailing professional standards, as outlined in the CEQA Guidelines and by the California Office of Historic Preservation.

**Mitigation Measure Haz-1:** Prior to any construction related activities on the project site, the project applicant shall prepare a Phase I Environmental Site Assessment specific to the boundaries of the project site to reflect the latest information available in federal and state agency databases, as well as a reconnaissance of the project site. Areas of potential concern shall be sampled and analyzed in accordance with the recommendations in the Phase I Environmental Site Assessment. If contamination is found, the applicant shall remediate it to the satisfaction of the County of Alameda Department of Environmental Health or other appropriate agency and comply with all federal, state and local laws and regulations.

**Mitigation Measure Haz-2:** Implement Mitigation Measure Haz-1.

**Mitigation Measure Hyd-1:** Implement Mitigation Measure Haz-1.

**Mitigation Measure Noise-1:** In the event that the City Council does not allow for the 65 dB(A) level in rear yards of the proposed homes closest, the project sponsor shall do one of the following:

- a) Construct an 8- to 10-foot sound barrier along the westbound edge of shoulder on the I-680 freeway in the vicinity of Lots 35-42 sufficient to reduce rear yard outdoor noise levels to 60 dB(A) $L_{dn}$  or lower. The applicant will be required to obtain an encroachment permit from Caltrans in order to implement this measure; OR
- b) Redesign the site plan so as to achieve rear yard outdoor noise levels of 60 dB(A) $L_{dn}$  or lower on all residential lots; OR
- c) Incorporate other features or make other project design changes sufficient to achieve rear yard outdoor noise levels of 60 dB(A) $L_{dn}$  or lower on all residential lots.

**Mitigation Measure Noise-2:** The following design features shall be incorporated into the project:

- a) Six-foot-tall noise barriers shall be erected to shield the rear yards of the parcels abutting the Hetch Hetchy parcel.
- b) All homes shall be provided with a suitable form of forced-air mechanical ventilation, as determined by Fremont Building and Safety Division, so that windows can be kept closed at the occupants' discretion to control interior noise and achieve the interior noise standards.
- e) Sound-rated windows and doors with a Sound Transmission Class (STC) rating of STC 36 to 42 shall be provided for all homes.
- f) Noise insulation features shall be designed to control maximum instantaneous noise levels to 50 dB(A) $L_{max}$  in bedrooms and to 55 dBA  $L_{max}$  in other habitable rooms, and to also achieve the 45-dB(A) $L_{dn}$  interior noise standard. In addition to sound-rated windows and doors, additional treatments may include, but are not limited to, sound-rated wall construction, acoustical caulking,

insulation, acoustical vents, etc. Large windows and doors should be oriented away from the I-680 where possible. Bedrooms should be located away from I-680.

- g) The final specifications for noise insulation treatments, including the STC ratings of windows and doors, shall be confirmed by a qualified acoustical consultant during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans, and shall be approved prior to issuance of a building permit.